IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ERIC KLEINSCHMIDT AND DANA MARIE KLEINSCHMIDT, Plaintiffs, v. LINCOLN BENEFIT LIFE COMPANY Defendant.	CASE NO. 14-2859 JURY TRIAL DEMANDED

LINCOLN BENEFIT LIFE COMPANY'S MOTION TO DISMISS
PLAINTIFFS' BAD FAITH CLAIM

Defendant Lincoln Benefit Life Company, by and through its attorneys, pursuant to Federal Rule of Civil Procedure 12(b)(6) and Local Rule 7.1, hereby moves for an order dismissing Count II of the Plaintiffs' complaint, and in support thereof, avers as follows:

1. In this lawsuit, the Plaintiffs contend that Lincoln Benefit acted improperly in connection with the lapse and termination of a life insurance policy. The Plaintiffs have not alleged that Lincoln Benefit has failed or delayed in making a benefit payment.

2. In their complaint, the Plaintiffs assert three discrete causes of action, including a claim for bad faith pursuant to 42 Pa. C.S.A. § 8371.

3. The Pennsylvania Supreme Court has held that the scope of § 8371 is limited to claims relating to the payment of benefits under a policy. Because the Plaintiffs' claims here do no relate in any way to the payment of a claim, § 8371 affords no remedy.

4. For these reasons, and for the reasons set forth more fully in Lincoln Benefit's memorandum of law in support of this motion to dismiss, Count II of the Plaintiffs' complaint should be dismissed.

WHEREFORE, Lincoln Benefit respectfully requests that this Honorable Court enter an order dismissing with prejudice Count II of the Plaintiffs' complaint.

Respectfully submitted,

Date: June 10, 2014

By: /s/ Jason P. Gosselin

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CERTIFICATE OF SERVICE

I, Jason Gosselin, hereby certify that on June 10, 2014, I filed the foregoing Motion to Dismiss, the supporting memorandum of law, and proposed order, via the Court's ECF system which will provide notice to the following counsel of record:

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/s/ Jason P. Gosselin
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